

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANYSA NGETHPHARAT, JAMES
KELLEY,

Plaintiffs.

V.

STATE FARM MUTUAL
INSURANCE COMPANY, STATE
FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendants.

CASE NO. C20-454 MJP

**ORDER GRANTING MOTION TO
SEAL**

This matter comes before the Court on Plaintiffs' Motion to Seal. (Dkt. No. 89.) Having considered the Motion, Defendants' Opposition (Dkt. No. 106), the Reply (Dkt. No. 112), and all briefing papers, the Court GRANTS the Motion and maintains Dkt. Nos. 90 and 91 under

The Parties jointly ask the Court to seal two exhibits to the report of Dr. Paul Torelli that Plaintiffs filed in support of their Reply to their Motion for Class Certification. (Dkt. Nos. 90 and

1 91.) Attachment 1 to the Torelli report contains information about total loss claims in a sample of
 2 potential class members, including the insured's name and VIN of their vehicle which the parties
 3 agree should be kept confidential to protect the insureds' privacy. (Dkt. No. 90.) Defendants
 4 have filed a redacted version of Attachment 1, which is publicly available and redacts the
 5 insured's name and VIN of their vehicle. (Dkt. No. 106-1.) Attachment 4 to the Torelli report
 6 contains Audatex's "price bands and applicable typical negotiation adjustment for each price
 7 band over more than a six-year period." (Dkt. No. 91; Declaration of Michelle Netz ¶ 3 (Dkt. No.
 8 107).) Defendants rely on a declaration from Michelle Netz, Audatex's Director of Total Loss
 9 and Data and Compliance at Audatex North America, Inc., who avers that the non-public
 10 information in this attachment was developed based on Audatex's "proprietary statistical
 11 modelling" and whose disclosure would allow competitors to co-opt the information to
 12 Audatex's competitive disadvantage. (Netze Decl. ¶ 3.)

13 As the Court has previously determined, it will apply the "compelling interest" standard
 14 to assess the motions to seal filed in conjunction with the Motion for Class Certification. See Ctr.
 15 for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1101 (9th Cir. 2016); (Order on Motion
 16 to Seal, Dkt. No. 82). Under the "compelling interest" test, the Court must "conscientiously
 17 balance[] the competing interests of the public and the party who seeks to keep certain judicial
 18 records secret." Kamakana v. City & Cty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006)
 19 (citation and quotation omitted). The Court may only seal records if it "base[s] its decision on a
 20 compelling reason and articulate[s] the factual basis for its ruling, without relying on hypothesis
 21 or conjecture." Id. (citation and quotation omitted). "The burden is on the party requesting a
 22 protective order to demonstrate that (1) the material in question is a trade secret or other
 23 confidential information within the scope of Rule 26(c), and (2) disclosure would cause an

1 identifiable, significant harm.” Foltz v. State Farm Mutual Auto. Ins. Co., 331 F.3d 1122, 1131
2 (9th Cir. 2003) (citation and quotation omitted). The Local Rules require State Farm to show: (1)
3 “the legitimate private or public interests that warrant the relief sought”; (2) “the injury that will
4 result if the relief sought is not granted”; and (3) “why a less restrictive alternative to the relief
5 sought is not sufficient.” Local Rule 5(g)(3)(B). “Evidentiary support from declarations must be
6 provided where necessary.” Id.

7 The Parties have provided sufficient grounds to find compelling interests to warrant
8 sealing Attachments 1 and 4 to the Torelli report. As to Attachment 1, the privacy interests of the
9 insureds outweighs the interest of the public to know the specific identity of any of the insureds.
10 Given that the redacted version of the document is publicly available, the public is otherwise able
11 to inspect the document and understand its relation to the pending Motion for Class Certification.
12 As to Attachment 4, the Court finds that Audatex’s Netze has provided sufficient grounds to
13 merit sealing. Netze explains that the price band data in the document is sensitive, non-public
14 information derived from Audatex’s proprietary statistical modeling and that its disclosure would
15 harm Audatex’s competitive position in the market. While the public undoubtedly has an interest
16 in knowing this information, the specific details of it are not necessary to be revealed to
17 understand the Motion for Class Certification. The Court therefore finds sealing of this
18 attachment in full to be appropriate.

19 The Court GRANTS the Motion to Seal and ORDERS that Attachments 1 (unredacted
20 version) and 4 to the Torelli report shall be kept under seal. (Dkt. Nos. 90 and 91.)

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1 The clerk is ordered to provide copies of this order to all counsel.

2 Dated June 15, 2021.

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4 Marsha J. Pechman
5 United States Senior District Judge

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